

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17186
[Redacted])	
)	DECISION
Petitioner.)	
_____)	

On November 15, 2002, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 1998 in the total amount of \$2,822.

On November 22, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) received information showing the taxpayer, a [Redacted] resident, sold real property in Idaho in 1998. Idaho Code section 63-3026A(3)(ii) states that income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from the ownership or disposition of any interest in real or tangible personal property located in Idaho. The Bureau researched the Tax Commission's records and found the taxpayer did not file a 1998 Idaho individual income tax return to report the income resulting from the sale of the taxpayer's Idaho property.

The Bureau sent the taxpayer letters asking the taxpayer about the sale of the Idaho property and advising him of his requirement to file an Idaho income tax return. The taxpayer responded by sending an Idaho income tax return [Redacted]. The Bureau determined the taxpayer's Idaho return was not properly prepared based on the information shown [Redacted]. The Bureau sent the taxpayer a deficiency notice in accordance with Idaho Code sections 63-3022H, and 63-3026A.

The taxpayer filed a protest to the Bureau's determination. The letter stated in pertinent part:

The 1998 Idaho tax return was filed showing a tax due of \$424, including penalties and interest of \$142. The calculation was based on the gross proceeds received on the sale of Idaho property on the installment method. Your notice dated November 15, 2002 is showing the tax calculation based on the full selling price not the amount that was actually received during the year. No proceeds were received on this installment sale after the year 1998.

The Bureau wrote back to the taxpayer acknowledging his protest and asking for additional information to clear up the inconsistencies in the two returns and the taxpayer's letter. After a period of time without receiving any additional information, the taxpayer's file was transferred to the Legal/Tax Policy Division for review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. Therefore, the Tax Commission decides the matter based upon the information available.

The facts show and the taxpayer does not dispute that there was a sale of property in Idaho. It is the amount of Idaho taxable income from the sale that is in dispute.

[Redacted] However, in his letter, the taxpayer said he did not receive any proceeds after 1998. The taxpayer was asked to provide documentation to account for the \$94,273 balance or foreclosure documents showing default and transfer of the property back to him. The taxpayer did not respond to the request.

The Bureau advised the taxpayer of the non-resident filing requirement if income exceeds \$2,500 during any given year and asked him to provide an amortization schedule identifying the principal payments and interest for the duration of the loan. The taxpayer sent nothing.

Since the taxpayer has provided nothing to suggest the figures shown in the deficiency notice are incorrect, the Tax Commission upholds the Bureau's determination. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984).

The Bureau added interest and penalty to the taxpayer's return pursuant to Idaho Code sections 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them proper and in accordance with the Idaho Code.

WHEREFORE, the Notice of Deficiency Determination dated November 15, 2002, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$1,841	\$460	\$ 565	\$2,866
			PAYMENT	<u>(\$424)</u>
			TOTAL	<u>\$2,442</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2003, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]_____